

Judge: Eavesdropping violated inmate's rights

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YAKIMA, Wash. — A Yakima County judge has dismissed several charges against a man who was held in the county jail, finding that his constitutional rights were violated when the prosecutor's office and a sheriff's detective listened to recorded phone calls between the inmate and his lawyer.

Superior Court Judge Douglas Federspiel ruled Wednesday that Daniel Woolem's attorney-client privilege was violated. The judge granted a motion to dismiss several felony drug and stolen property charges.

Prosecuting Attorney Jim Hagarty didn't immediately return phone calls seeking comment, the Yakima Herald-Republic reported (<http://is.gd/bNNjhp>).

Former Yakima County prosecuting attorney and retired U.S. Attorney Jeff Sullivan had been brought in to determine the facts of the case. The judge ruled after reviewing Sullivan's report and listening to two days of testimony.

"Under the limited, unique and specific facts of this case based upon this record, it is the court's opinion that of the available remedies, the only meaningful and appropriate remedy that addresses the violation of the defendant's right to counsel is the dismissal of the pending charges against Mr. Woolem," Federspiel wrote in his order.

Officials disclosed last summer that there was eavesdropping on calls in May 2011 between Woolem and his attorney at the time, Tim Schoenrock.

The jail's phone system can record all telephone calls involving inmates, and they are warned that their calls are recorded. However, a jail official testified that inmates are also told that calls with their lawyers will not be recorded.

A recording of the first call, from May 3, 2011, was listened to the same day by Detective Robert Tucker. Tucker said he stopped listening as soon as he realized a lawyer was involved and said he reported the eavesdropping to the prosecutor's office.

"However, a transcript provided by Special Master Sullivan indicates that the access went well beyond what should have been the first indication that the conversation was an attorney-client communication," Federspiel wrote.

The other two calls, on May 7 and May 9, 2011, were accessed in September of that year by someone using Hagarty's username and password. Hagarty said he did not listen to the recordings and he might have authorized someone in his office to use his username and password. Neither Sullivan nor Hagarty was able to determine who accessed the calls, the judge wrote.

"Basically, there was a severe breakdown in the security system," Woolem's current lawyer, Ricardo Hernandez, told the newspaper. "There should have been someone to take responsibility for those calls and there wasn't."

Woolem was not listed Thursday night on the Yakima County jail roster. His lawyer didn't immediately return a call late Thursday about his client's status after the ruling.

Information from: Yakima Herald-Republic, <http://www.yakimaherald.com>

Read more here: <http://www.tri-cityherald.com/2013/12/19/2739444/yakima-judge-inmates-rights-violated.html#storylink=cpy>